

## **Appendix Exhibit 113**

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Reorganized Debtor.

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Chapter 11

Case No. 19-34054-sgj11

**HIGHLAND'S SUPPLEMENTAL MOTION  
TO DISQUALIFY WICK PHILLIPS GOULD & MARTIN, LLP  
AS COUNSEL TO HCRE PARTNERS, LLC AND FOR RELATED RELIEF**

Highland Capital Management, L.P., the reorganized debtor<sup>1</sup> ("Highland" or "HCMLP" as may temporally be required) in the above-captioned chapter 11 case (the "Bankruptcy Case"), by and through its undersigned counsel, files this *Supplemental Motion to Disqualify Wick Phillips*

<sup>1</sup> On February 22, 2021, the Bankruptcy Court entered the *Order (i) Confirming the Fifth Amended Plan of Reorganization (as Modified) and (ii) Granting Related Relief* [Docket No. 1943] (the "Confirmation Order") which confirmed the *Fifth Amended Plan of Reorganization of Highland Capital Management, L.P., as Modified* [Docket No. 1808] (the "Plan"). The Plan went Effective (as defined in the Plan) on August 11, 2021, and Highland is the Reorganized Debtor (as defined in the Plan) since the Effective Date. See *Notice of Occurrence of Effective Date of Confirmed Fifth Amended Plan of Reorganization of Highland Capital Management, L.P.* [Docket No. 2700].



*Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief* (the “Supplemental Motion”) seeking entry of an order: (i) directing the disqualification of Wick Phillips Gould & Martin, LLP (“Wick Phillips”) as counsel to HCRE Partners, LLC (“HCRE”) in connection with the prosecution of HCRE’s Claim;<sup>2</sup> (ii) directing Wick Phillips to immediately turnover to the Debtor all files and records relating to the LLC Agreement, the Loan Agreement, and the Restated LLC Agreement; and (iii) directing HCRE to (a) reimburse the Debtor all costs and fees incurred in making the Motion and this Supplemental Motion, including reasonable attorneys’ fees; and (b) engage substitute counsel in connection with the prosecution of HCRE’s Claim within fourteen (14) days of the entry of this Order. In support of its Supplemental Motion, Highland states as follows:

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction over the Supplemental Motion pursuant to 28 U.S.C. §§ 157 and 1334(b). The Supplemental Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O). Venue is proper in this judicial district pursuant to 28 U.S.C. § 1409. The predicate for the relief requested in the Supplemental Motion is section 105(a) of title 11 of the United States Code (the “Bankruptcy Code”).

### **RELIEF REQUESTED**

2. Highland requests that this Court grant the relief requested in the proposed *Order Granting Motion to Disqualify Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief* [Docket No. 2196-1] (the “Proposed Order”).<sup>3</sup>

3. For the reasons set forth more fully in Highland’s Memorandum of Law, Highland seeks (i) disqualification of Wick Phillips as counsel to HCRE in connection with the prosecution of HCRE’s Claim and (ii) related relief.

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<sup>2</sup> Capitalized terms not otherwise defined in this Supplemental Motion have the meanings ascribed to them in *Highland’s Memorandum of Law in Support of Supplemental Motion to Disqualify Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief* (the “Memorandum of Law”) being filed contemporaneously herewith.

<sup>3</sup> The Proposed Order is annexed as Exhibit A to the *Motion to Disqualify Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief* [Docket No. 2196] (the “Motion”).

4. Wick Phillips' continued representation of HCRE constitutes a direct conflict of interest. The undisputed facts demonstrate that Wick Phillips' Prior Representation of HCRE and Prior Representation of Highland involve the same matter and, at a very minimum, are clearly "substantially related." Wick Phillips' Current Representation of HCRE in connection with the prosecution of HCRE's Claim violates its duty of loyalty and confidentiality to its former client, Highland, under applicable ethical standards.

5. In accordance with Rule 7007-1 of the *Local Bankruptcy Rules of the United States Bankruptcy Court for the Northern District of Texas* (the "Local Rules"), contemporaneously herewith and in support of this Supplemental Motion the Debtor is filing its: (i) Memorandum of Law, and (ii) the *Declaration of Kenneth Brown in Support of Highland's Supplemental Motion to Disqualify Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief* (the "Brown Declaration").

6. Based on (i) the facts and arguments set forth in the Memorandum of Law and (ii) the exhibits attached to the Brown Declaration, Highland is entitled to the relief requested herein as set forth in the Proposed Order.

7. Notice of this Supplemental Motion has been provided to Wick Phillips, individually and in its capacity as counsel to HCRE. Highland submits that no other or further notice need be provided.

WHEREFORE, Highland respectfully requests that the Court (i) enter the Proposed Order substantially in the form annexed as Exhibit A to the Motion, granting the relief requested herein, and (ii) grant the Debtor such other and further relief as the Court may deem proper.

Dated: October 1, 2021

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